

REMARKS

Currently, claims 1-32 are pending in the present application, including independent claims 1, 10, and 19. Claim 19 has been amended in response to the suggestion by the Examiner to include "non-transitory" before "computer readable medium." No other claims have been amended and allowance of all claims is respectfully requested based on the following remarks.

Claim 1 claims a method for conducting a plurality of game sessions. A wagering game of chance is provided in at least one of at least two of the plurality of game sessions. Entry of at least one player in at least one of the plurality of game sessions is provided. A subscription is provided for the at least one player to the at least two of the plurality of game sessions. An alternative method of entry (AMOE) is provided to the wagering game of chance. The AMOE is a freely provided, free method of entry into the at least one of the plurality of game sessions. Providing the AMOE includes providing, via a website, an indication of a game session to be entered by AMOE including, at least, the wagering game of chance wherein the wagering game of chance has a date and time. The player receives, via the website, an entry specifying the date and time of the wagering game and is entered in the at least two of the plurality of game sessions, in response to processing the subscription. Independent claims 10 and 19 claim the same patentably distinct limitations of claim 1.

Providing for a free AMOE not only allows for additional players to enter a game without paying to play but also aids in comporting with regulations regarding making sweepstakes available via means that do not require a purchase. Further, receiving an AMOE from a player allows the entity providing the game to establish a relationship with

a player that may lead to the player becoming a paying customer. Additionally, the number of AMOE's a player may submit can be limited to guard against profit loss as well as to encourage a player to possibly submit paid entries as well.

Independent claim 19 was rejected pursuant to 35 U.S.C. § 101 as directed to non-statutory subject matter. While Applicants respectfully disagree with this determination, in the interest of forwarding prosecution, claim 19 has been amended as suggested by the 01/21/11 Office Action to insert "non-transitory" before "computer readable medium." Accordingly, the rejection of claim 19 should be withdrawn and the claim allowed.

Independent claims 1, 10 and 19 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Office Action contends that "[p]aragraphs 73-73 [sic] are silent as to a player actually logging into a website and entering data respective of date and time of a gaming session. There is support for date and time respective of a post card, but not of a website providing such information." (01/21/11 Office Action, p. 3.) Respectfully, the limitations of claims 1, 10 and 19 are supported throughout the application and the rejection of the claims pursuant to 35 U.S.C. § 112, first paragraph, should be withdrawn and the claims allowed.

Foremost, the test for determining compliance with the written description requirement is whether the disclosure of the application as originally filed reasonably conveys to the artisan that the inventor had possession at that time of the later claimed subject matter, **rather than the presence or absence of literal support in the specification for the claim language**. MPEP § 2163. Information contained in any

one of the specification, claims or drawings of the application as filed may be added to any other part of the application without introducing new matter. MPEP § 2163.06. A *prima facie* case requires a reasonable basis to challenge the adequacy of the written description. MPEP § 2163.04. The MPEP equates this reasonable basis with “a preponderance of evidence why a person skilled in the art would not recognize in an applicant’s disclosure a description of the invention defined by the claims.” MPEP § 2163(III)(A). Further, an applicant shows possession of the claimed invention by describing the claimed invention with all of its limitations using such descriptive means as words, structures, figures, diagrams, and formulas that fully set forth the claimed invention. MPEP § 2163. Importantly, there is no *in haec verba* requirement. Claim limitations can be supported in the specification through express, implicit, or inherent disclosure. *Id.*

Respectfully, Applicants plainly provide support for the limitation of a player receiving, via a website, an entry specifying the date and time. As Applicants explain at paragraph [0022] of the published application, “the AMOE is performed by an act of *submitting an entry to the wagering game over the Internet.*” (Emphasis added.) Paragraph [0025] further explains “the method further comprises an act of *providing to the at least one player an indication of a game session to be entered by the alternative method of entry.*” (Emphasis added.) As paragraph [0073] explains, “an individual [can] sign on to a free internet website and submit the required information for free.” Paragraph [0075] explains that “the game session that the game player entering by AMOE is entered into may be determined by the game player on the AMOE entry form” and “AMOE entries may be assigned to a specific game session(s) each hour, day,

week or other time interval.” While paragraph [0075] discloses that a player may provide the date and time of the game session using a post card, clearly one skilled in the art would understand, as paragraph [0075] explains, that this is simply one example of how the date and time of the game session can be provided.

Accordingly, one skilled in the art would understand that players entering through the website, as repeatedly provided in the specification, would also receive an “entry specifying the date and time” as claimed. Otherwise, the player would have no idea when the session would occur and the intent of the specification would be frustrated. Respectfully, the Office Action reads paragraph [0075] too narrowly and attempts to infer that a postcard is the only possible way of receiving a date and time for an entry when paragraph [0075] explains that a post card is simply one example of how a date and time entry can be created. Accordingly, the specification would be understood by one skilled in the art to disclose all the limitations of claims 1, 10 and 19. Thus, the rejections of the claims pursuant to 35 U.S.C. § 112, first paragraph, should be withdrawn and the claims allowed.

Independent claims 1, 10 and 19 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Fisk, WO 00/69535 (“Fisk ‘535”) in view of Koza, U.S. Patent No. 6,767,284 (“Koza ‘284”) in further view of Fioretti, U.S. Patent No. 5,351,970 (“Fioretti ‘970”). Respectfully, however, the suggested combination fails to disclose all the limitations of Applicants’ claims, Fisk ‘535 teaches away from Applicants’ claims, and one skilled in the art would not modify Fisk ‘535 in view of Koza ‘284 in further view of Fioretti ‘970 as suggested by the Office Action because doing so destroys the intent of

Fisk '535 and changes its principle of operation. Moreover, the combination evinces hindsight bias.

Fisk '535 discloses a computer network managing multiple simultaneous bingo games having a potentially large number of bingo cards. (Abstract.) In one embodiment, players are supplied with bingo cards for participating in bingo games by manual distribution of the bingo cards to players. The bingo cards are distributed to players via printing the bingo cards on the reverse side of lottery tickets or printed in newspapers and magazines distributed to the public. (P. 11, ll. 5-15.) Once the player obtains a bingo card, **the player enters the bingo game by paying a fee to enter the game.** (P. 12, l. 25; P. 13, l. 14.) In addition, the bingo cards may also be pre-paid, in that no additional fee is required to enter the game. (P. 14, ll. 13-14.) However, once plays on the prepaid card are consumed, the player must purchase subsequent plays to continue playing the game. (P. 30, ll. 9-11.) After the player has delivered payment, the player receives a receipt for the entry showing they have paid to enter the game. (P. 13, ll. 15-16.) Distribution of the preprinted bingo cards "is expected to enhance the visibility of the bingo game **and promote sales** of the bingo game particularly when the game is initially announced." (P. 14, ll. 5-6.)

Respectfully, the Office Action is incorrect in its assertion that the combination of Fisk '535 in view of Koza '284 in further view of Fioretti '970 discloses all the limitations of Applicants' claims. In fact, Fisk '535 teaches away from Applicants' claims. Foremost, the Office Action is incorrect in stating that Fisk '535 discloses providing an AMOE to players which permits a player free entry into a wagering game. As Fisk '535 explains, although it may distribute bingo cards via printing them on the backs of lottery

tickets and in magazines and newspapers, **a player cannot play the Fisk '535 bingo card until she pays to enter the game.** (P. 12, l. 25; P. 13, l. 14.) Fisk '535 is silent as to providing entry into the bingo game without the player paying to do so. These failings are not remedied by modifying Fisk '535 in view of Koza '284 as explained below. Nor does incorporating Fioretti '970 correct these failings. Accordingly, Fisk '535 fails to disclose all the limitations of Applicants' claim. More importantly, Fisk '535 teaches away from Applicants' claims by requiring all players to pay a wager to enter the disclosed bingo game.

Further, the Office Action incorrectly reasons that modifying Fisk '535 in view of Koza '284 in further view of Fioretti '970 to arrive at Applicants' claims "would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Fisk in view of Koza, and in further view of Fioretti." (01/21/11 Office Action, p. 8.) As Fisk '535 explains, it intends to distribute bingo cards via printing them on lottery tickets and in newspapers and magazines in order to promote those receiving the cards to wager in the bingo game. There is simply no logical, articulated reason why one skilled in the art would modify Fisk '535 to provide free entry of players into the game by incorporating the disclosure of Koza '284 that players may enter a game by requesting a free entry or by incorporating the disclosure of Fioretti '970 regarding entry into bingo gaming sessions via home computers. Doing so destroys the intent of Fisk '535 that all players pay in order to play the game and changes its principle of operation. Accordingly, one skilled in the art would not make the suggested modification of Fisk '535 in view of Koza '284 in further view of Fioretti '970. Further, any such modification

would evince hindsight bias. Therefore, the rejection of independent claims 1, 10 and 19 should be withdrawn and the claims allowed.

Applicants also respectfully submit that for at least the reasons indicated above relating to corresponding independent claims, the pending dependent claims patentably define over the references cited. However, Applicants also note that the patentability of the dependent claims certainly does not hinge on the patentability of independent claims. In particular, it is believed that some or all of these claims may possess features that are independently patentable, regardless of the patentability of the independent claims. For instance, the suggested combination of references fails to disclose the limitations of claim 18 that claims, *inter alia*, wherein new game cards are chosen randomly by a computer every game session for the subscribing player. The Office Action contends that Fisk '535 discloses this limitation at page 34, lines 20-22. Respectfully, however, this section explains that *unused* bingo cards may be deleted if they will not be used in subsequent games. (P. 34, ll. 21-22.) In fact, Fisk '535 allows a player to reuse a "lucky" bingo card. (P. 30, ll. 6-11.) Thus, the rejection of claim 18 should be withdrawn and the claim allowed.

It is believed that the present application is in complete condition for allowance and favorable action, therefore, is respectfully requested. Examiner Harper is invited and encouraged to telephone the undersigned, however, should any issues remain after consideration of this Amendment.

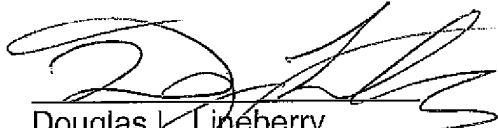
Please charge any additional fees required by this Amendment to Deposit Account No. 04-1403.

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Appl. No. 11/999,259
Amdt. dated April 21, 2011
Reply to Office Action of Jan. 21, 2011

Respectfully requested,
DORITY & MANNING, P.A.

Date: April 21, 2011

A handwritten signature in black ink, appearing to read 'D. Lineberry', written over a horizontal line.

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